

CERTIFICATE OF ELECTRONIC TRANSMISSION

Date of Deposit: September 14, 2007

Our Case No. 8285/669

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Gloria Jean Navarre et al.)	
Serial No.: 10/767,411)	Examiner: Kim, Paul
Filing Date: January 27, 2004)	Group Art Unit No.: 2161
For: System and Method for Executing)	
a Request from a Client)	
Application)	

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants request review of the final rejection in the above-identified application.
No amendments are being filed with this request.

This request is being filed with a notice of appeal

The review is requested for the reasons stated on the attached sheets. No more than five (5) pages are provided.

REMARKS

I. Introduction

Claims 1-20 are pending in the application. In the final Office Action dated July 18, 2007, claims 1-19 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over U.S. Pat. No. 6,442,611. Additionally, claims 1-8, 10-18, and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 5,634,127 ("Cloud") in view of U.S. Pat. No. 6,732,101 ("Cook"), and claims 9 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cloud in view of Cook and U.S. Pat. No. 5,819,092 ("Ferguson"). Applicants respectfully request review of the final rejections.

II. Double Patenting Rejection

Claims 1-19 were rejected under the judicially created doctrine of double patenting as being unpatentable over U.S. Pat. No. 6,442,611. Upon a determination by the Examiner that the claims are allowed absent the double patenting rejection, Applicants will file a terminal disclaimer to overcome the double patenting rejection.

III. The Proposed Combinations Do Not Render Claim 1 Unpatentable

Independent claim 1 recites transmitting a set of data access transactions to respective applications, wherein at least some of the set of data access transactions comprise a first optional data item, and wherein the respective applications process the set of data access transactions even when the respective applications do not recognize the first optional data item. The Examiner has admitted that Cloud fails to teach the use of optional data items. In an effort to cure the deficiency, Cook was cited. However, Cook fails to teach the elements for which it was cited.

Cook is directed to a secure message forwarding system that detects user preferences such as security preferences. With respect to the passages of Cook cited by the Examiner, Cook teaches a system that may decrypt a message and verify a sender's signature. Additionally, the system may optionally perform actions such as verifying a time stamp, verifying an authenticity of a server's public key, or retrieving a status of a sender's public key. While Cook may teach performing optional operations,

Cook fails to teach processing data even when an application does not recognize an optional data item as recited in claim 1. In fact, the passages of Cook cited by the Examiner contain no mention of an application not recognizing an optional data item.

In the final Office Action, the Examiner asserts that in Cook, when an application continues to process data when a public key that is invalid or un-locatable, it is the same as processing data when a data item is not recognizable. Applicants respectfully disagree. When an application continues to process a public key that is invalid, the application has recognized the data as a public key but has determined its value is not valid. Therefore, it is not that the data item is not recognizable but that the data is determined to not be correct. Similarly, when an application continues to process data even though a public key is un-locatable, the application continues to process data even though it has not found a set of data it was looking for. Again, it is not that a data item is not recognizable but that the data the application is looking for cannot be found.

Independent claim 1 recites that a respective application processes a set of data transactions even when an application does not recognize a data item. In this case it is not that an application determines the value of a data item is not correct, or that an application cannot locate a data item, but that the application has encountered a data item that the application does not recognize.

Because Cook fails to teach applications processing a set of data access transactions even when the applications do not recognize an optional data item, the proposed combinations of Cloud, Cook, and Ferguson as contemplated by the Examiner necessarily do not render independent claim 1, or any claim that depends on claim 1, unpatentable.

IV. The Proposed Combinations Do Not Render Claim 11 Unpatentable

Independent Claim 11 recites a system wherein a plurality of applications are operative to process a set of data access transactions even when the plurality of applications do not recognize a first optional data item. The Examiner has admitted that Cloud fails to teach the use of optional data items. In an effort to cure the deficiency, Cook was cited. However, as explained above, while Cook may teach an application performing optional operations, Cook fails to teach applications processing a set of data

access transactions even when the applications do not recognize an optional data item as asserted by the Examiner. For at least this reason, the proposed combinations of Cloud, Cook, and Ferguson as contemplated by the Examiner necessarily do not render independent claim 11, or any claim that depends on claim 11, unpatentable.

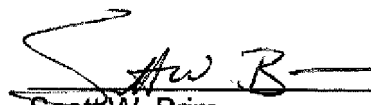
V. The Proposed Combinations Do Not Render Claim 20 Unpatentable

Independent Claim 20 recites transmitting a set of data access transactions to respective applications, wherein at least some of the set of data access transactions comprise a first optional data item, and wherein the respective applications process the set of data access transactions even when the respective applications do not recognize the first optional data item. The Examiner has admitted that Cloud fails to teach the use of optional data items. In an effort to cure the deficiency, Cook was cited. However, as explained above, while Cook may teach performing optional operations, Cook fails to teach processing data even when an application does not recognize an optional data item as asserted by the Examiner. For at least this reason, the proposed combinations of Cloud and Cook as contemplated by the Examiner necessarily do not render independent claim 20 unpatentable.

VI. Conclusion

In view of the foregoing remarks, Applicants submit that the pending claims are in condition for allowance. Review of the final rejections is respectfully requested. If there are any questions concerning this Pre-Appeal Brief Request for Review, the Examiner is asked to phone the undersigned attorney at (312) 321-4200.

Respectfully submitted,



Scott W. Brim
Registration No. 51,500
Attorney for Applicants

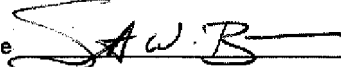
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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional) 8285-669

I hereby certify that this correspondence is being electronically filed with the United States Patent and Trademark Office on: September 14, 2007.

Signature



Typed or printed

Name Scott W. Brim

Application Number

10/767,411

Filed: January 27, 2004

First Named Inventor: Gloria Jean Navarre et al.

Art Unit

2161

Examiner: Kim, Paul

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The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five(5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

☒ attorney or agent of record.

Registration number 51,500

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34.

Signature

Scott W. Brim

Typed or Printed Name

312 321-4200

Telephone number

September 14, 2007

Date

Note: Signatures of all inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.*